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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ESCO CORPORATION and ESCO CANADA,
LTD.,

Plaintiffs,

v.

CASHMAN EQUIPMENT COMPANY,
CATERPILLAR GLOBAL MINING LLC,
CATERPILLAR, INC., RAPTOR MINING
PRODUCTS (USA), INC. and RAPTOR
MINING PRODUCTS, INC.

Defendants.

Lead Case No.: 2:12-cv-01545-RCJ-CWH

Consolidated Cases: (2:12-cv-01545-RCJ-
CWH, 2:14-cv-529-RCJ-PAL)

**JOINT STIPULATION AND ORDER
HOLDING PRE-TRIAL DEADLINES IN
ABEYANCE PENDING RESOLUTION
OF MOTIONS**

(First Request)

1 Plaintiffs ESCO Corporation and ESCO Canada Ltd. (collectively “Plaintiffs”) and
2 Defendants Cashman Equipment Company, Caterpillar Global Mining LLC, Caterpillar, Inc.,
3 Raptor Mining Products, (USA), Inc. and Raptor Mining Products, Inc. (collectively
4 “Defendants,” and together with Plaintiffs, the “Parties”), through their undersigned counsel of
5 record, and pursuant to L.R. 6-1 and 7-1, hereby agree and stipulate to the Court’s entry of an
6 *Order* providing that all upcoming deadlines in this case, with the exception of the Post-Claim
7 Construction Settlement Conference (as the Parties have already proposed a new scheduled time
8 for the Conference [ECF 169]), are held in abeyance pending the Court’s resolution of Plaintiffs’
9 filed Motions to Dismiss, Strike, Sever and Stay [ECF Nos. 160, 164-66] and Plaintiffs’
10 upcoming Motion for Limited Reconsideration of the Court’s Claim Construction Order [ECF
11 No. 158].
12

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14 This case is a consolidation of two separate cases: (1) Case No. 2:12-cv-01545-RCJ-
15 CWH (“the ‘1545 Case”); and (2) Case No. 2:14-cv-529-RCJ-PAL (“the ‘529 case”). By virtue
16 of the consolidation, there are potentially two controlling Scheduling Orders for this case. (*See*
17 ECF 126-27 from the ‘1545 case and ECF 40 from the ‘529 case). As a term of this stipulation,
18 the Parties agree to submit a single, consolidated proposed scheduling Order within 10 days of
19 the Court’s resolution of the pending and prospective motions noted above.
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21 The number and scope of claims and defenses in this consolidated case is currently
22 unsettled. As one example, the Plaintiffs’ Motions to Dismiss, Strike, Sever and Stay [ECF Nos.
23 160, 164-66] seeks to eliminate significant issues, such as the Defendants’ antitrust counterclaim,
24 from the present patent infringement case by dismissal and/or stay. Moreover, Defendants
25 believe the Court’s claim construction order significantly narrows Plaintiffs’ infringement
26 claims, but understand that Plaintiffs anticipate filing a motion to seek limited reconsideration of
27 the Court’s Claim Construction Order [ECF No. 158]. Resolution of that anticipated motion will
28

1 allow the Parties to more fully evaluate certain patent infringement claims. This may result in
2 one or more claims being voluntarily removed from the case or addressed via summary
3 judgment.

4 Therefore, there is good cause for this stipulation. Continuing these deadlines would
5 promote judicial economy by preventing the need for the Parties and the Court to expend time
6 and effort on issues that may later be stayed or dismissed from the case. Submission of a single,
7 consolidated Scheduling Order for this consolidated case that takes into account these
8 circumstances will provide a more efficient timetable for resolving the remaining issues in the
9 case. Moreover, this extension is not requested for any improper purpose or delay. Finally, the
10 Parties have not previously requested extensions regarding the remaining pre-trial deadlines.

11 In sum, the Parties request the Court's entry of an *Order* providing that all upcoming
12 deadlines in this case, with the exception of the Post-Claim Construction Settlement Conference,
13 are held in abeyance pending the Court's resolution of Plaintiffs' filed Motions to Dismiss,
14 Strike, Sever and Stay [ECF Nos. 160, 164-66] and Plaintiffs' upcoming Motion for Limited
15 Reconsideration of the Court's Claim Construction Order [ECF No. 158],¹ and providing that the
16 Parties submit a single, consolidated Proposed Scheduling Order within 10 days of the resolution
17 of these motions.

18 Dated this 1st day of June, 2015.

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28 ¹ Defendants do not currently intend to move for reconsideration of the Court's claim construction order; however, they may cross-move if Plaintiffs do indeed file a motion for reconsideration. The Parties request that the period of abeyance include all motions for reconsideration of the Court's claim construction order.

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***Attorneys for Plaintiffs ESCO Corporation
and ESCO Canada, Ltd.***

19 **ORDER**

20 IT IS SO ORDERED.

21 DATED: June 2, 2015

22 
23 _____
24 United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 1, 2015 a true and correct copy of the foregoing **JOINT STIPULATION AND ORDER HOLDING PRE-TRIAL DEADLINES IN ABEYANCE PENDING RESOLUTION OF MOTIONS** will be served upon all counsel of record who are registered participants via electronic mail through the United States District Court's CM/ECF system.

DATED: June 1, 2015

/s/ Jeff Tillison
Employee of Watson Rounds, P.C.